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Case No. 2:19-cv-01010-GMN-VCF

ORDER

14 LAS VEGAS DETENTION CENTER, et
15 al.,

Respondents.

22 This action arises out of a conviction in the Las Vegas Municipal Court. Petitioner
23 appealed the conviction to the Eighth Judicial District Court of the State of Nevada, which
24 dismissed the appeal.

1

1 written judgment of conviction. Ground 3 is a claim that the state district court's dismissal of the
2 appeal, because petitioner did not file a transcript, was incorrect. Ground 5 is a claim that
3 petitioner's appeal needed to be heard by a three-judge panel, not by one judge. All of these are
4 claims of violations of state laws. "A federal court may not issue the writ on the basis of a
5 perceived error of state law." Pulley v. Harris, 465 U.S. 37, 41 (1984). Consequently, grounds 1,
6 2, 3, and 5 are without merit.

7 In ground 4, petitioner alleges that the state district judge dismissed the appeal because of
8 the judge's antipathy toward petitioner's religious beliefs and practices. However, petitioner
9 himself alleged in ground 3 that the state district court dismissed the appeal because he failed to
10 file a transcript with his appeal. That decision is independent of any bias that the judge might
11 have had. Ground 4 is without merit on its face.

12 To appeal the denial of a petition for a writ of habeas corpus, Petitioner must obtain a
13 certificate of appealability, after making a "substantial showing of the denial of a constitutional
14 right." 28 U.S.C. §2253(c).

15 Where a district court has rejected the constitutional claims on the merits, the
16 showing required to satisfy §2253(c) is straightforward: The petitioner must
17 demonstrate that reasonable jurists would find the district court's assessment of the
constitutional claims debatable or wrong.

18 Slack v. McDaniel, 529 U.S. 473, 484 (2000); see also James v. Giles, 221 F.3d 1074, 1077-79
19 (9th Cir. 2000). Reasonable jurists would not find the court's determinations on petitioner's
20 claims to be debatable or wrong. The court will not issue a certificate of appealability.

21 IT THEREFORE IS ORDERED that the motion to file first amended petition (ECF No.
22 14) is **GRANTED**. The clerk of the court shall file the amended petition, currently in the docket
23 at ECF No. 14-1.

24 IT FURTHER IS ORDERED that the first amended petition is **DENIED**. The clerk of the
25 court shall enter judgment accordingly and close this action.

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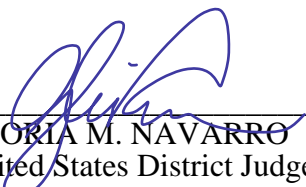
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IT FURTHER IS ORDERED that a certificate of appealability will not issue.

DATED: [October 2, 2019](#)



GLORIA M. NAVARRO
United States District Judge